

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

U.S. BANK TRUST NATIONAL ASSOCIATION, AS TRUSTEE OF IGLOO SERIES V TRUST Plaintiff,	:	
	:	
	:	
v.	:	Civil Action Number:
	:	1:23-cv-00532-JJM-PAS
	:	
BRUNO PALIOTTA;	:	
GIUSEPPE B. PALIOTTA;	:	
JOHN J. PALIOTTA, AS HEIR TO THE ESTATE OF ANNA PALIOTTA;	:	
DEPARTMENT OF TREASURY-INTERNAL REVENUE SERVICE;	:	
STATE OF RHODE ISLAND DIVISION OF TAXATION;	:	
Defendants.	:	

ANSWER OF STATE OF RHODE ISLAND DIVISION OF TAXATION TO PLAINTIFF'S VERIFIED COMPLAINT

The State of Rhode Island Division of Taxation (“Tax Division”), a named Defendant in the above-entitled action, by and through its attorney, hereby answers the Complaint of the Plaintiff, U.S. Bank Trust National Association, as Trustee of Igloo Series V Trust (“Plaintiff”), as follows:

The Tax Division is without knowledge or information sufficient to form a belief as to the truth of all allegations in the Complaint except that it admits that it has a principal place of business at One Capitol Hill, Providence, Rhode Island 02908.

In further responding, to the extent that there are any surplus funds that are based on liens held by the Tax Division, the Tax Division reserves its rights to said surplus funds.

Additionally, the Tax Division does not object to the Plaintiff's requests for relief or foreclosure of the property as set forth in the Complaint, except as to this Honorable Court granting such additional and equitable relief as this Court deems just and appropriate to the extent such relief is in addition to the requests for relief and foreclosure as specifically included in the Complaint.

AFFIRMATIVE DEFENSES

As this Honorable Court is aware, the U.S. District Court is without subject matter jurisdiction over state tax matters and the exhaustion of administrative remedies is an essential prerequisite for judicial review of any state tax matter. R.I. Gen. Laws §§ 8-8-3(a)(6) and 8-8-24. *Owner-Operators Independent Drivers Ass'n v. State*, 541 A.2d 69 (R.I. 1988); *International Packaging Corp. v. Mayer*, 715 A.2d 636 (R.I. 1998). If the within action is limited to determining the extent or priority of the parties' claims, the Tax Division is without jurisdictional and procedural objection. However, if the subsequent proceedings entail a collateral attack upon the validity of a state tax liability or the propriety of the state tax lien arising therefrom, the gravamen of this action would result in a state tax dispute. Under these circumstances, and out of an abundance of caution, the Tax Division preserves its rights by raising the following affirmative defenses:

First Affirmative Defense

The court lacks subject matter jurisdiction. FRCP 12(b)(1).

Second Affirmative Defense

Plaintiff fails to state a claim upon which relief can be granted. FRCP 12(b)(6).

Third Affirmative Defense

The Division reserves the right to assert additional affirmative defenses as discovery reveals appropriate.

WHEREFORE, the Tax Division agrees to judgment for the Plaintiff to the extent as set forth in this Answer and with each party to bear its own costs and/or attorney's fees.

Respectfully submitted,

STATE OF RHODE ISLAND
DIVISION OF TAXATION,

By its Attorney,

/s/ John A. Beretta

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UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

IN RE:

U.S. BANK TRUST NATIONAL	:	
ASSOCIATION, AS TRUSTEE OF	:	
IGLOO SERIES V TRUST	:	
Plaintiff,	:	
	:	
v.	:	Civil Action Number:
	:	1:23-cv-00532-JJM-PAS
	:	
BRUNO PALIOTTA;	:	
GIUSEPPE B. PALIOTTA;	:	
JOHN J. PALIOTTA, AS HEIR TO THE	:	
ESTATE OF ANNA PALIOTTA;	:	
DEPARTMENT OF TREASURY-INTERNAL	:	
REVENUE SERVICE;	:	
STATE OF RHODE ISLAND DIVISION OF	:	
TAXATION;	:	
Defendants.	:	

CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2024, I electronically filed the following document(s):

1. Answer of State of Rhode Island Division of Taxation to Plaintiff's Verified Complaint using the CM/ECF system and it was delivered electronically to:

David Arnold Shaw, Esq. (Plaintiff's Counsel)
dshaw@dhnewengland.com

I hereby certify that on January 23, 2024, I have mailed by United States Postal Service, postage pre-paid, a copy of the Answer of State of Rhode Island Division of Taxation to Plaintiff's Amended Complaint to the following non-CM/ECF participants: **NONE**

/s/ John A. Beretta